

Remarks

Reconsideration and continued examination of this application is respectfully requested.

Claims 1 to 12 are pending. Claims 1 and 8 are being amended herein to add the limitation that the second adhesive layer is "other than a hot melt adhesive layer". Support for this can be found in the specification at page 2 line 26 to page 3 line 26, where Applicants acknowledge prior teachings of hot melt adhesive layers that include tacky elastomeric microspheres, and point out disadvantages of such systems and distinguish them from embodiments of the present application. The word "infusible", which was added to claims 1 and 8 in a previous amendment, is now being canceled as an unnecessary limitation.

The Office Action rejected claims 1-12 as obvious over U.S. Pat. 3,758,192 (Bingham) in view of U.S. Pat. 4,166,152 (Baker et al.), saying that it would have been obvious to modify Bingham by dispersing microspheres within a second hot melt adhesive layer as taught by Baker et al. in order to provide a positionable hot melt adhesive system.

This rejection cannot be sustained, particularly in view of amended independent claims 1 and 8. Even assuming *arguendo* that one of ordinary skill would have been motivated to combine the cited references in the manner proposed by the Examiner, the second layer would be a hot melt adhesive layer, falling outside the scope of the amended claims. Withdrawal of the rejection is requested.

The undersigned also wishes to respond to points made by the Examiner in item 4 of the Office Action. In the previous amendment, Applicants stated that an infusible adhesive layer "is distinguishable from Baker et al.'s (fusible) hot melt adhesive layer containing elastomeric microspheres." The Examiner interpreted this as directly contradicting page 5 of the present specification:

"The second adhesive layer of the label comprises an elastomeric microsphere adhesive. Particularly suitable elastomeric microsphere adhesives for use in this invention are disclosed in US 3,691,140 (Silver) and US 4,166,152 (Baker et al.). The microsphere adhesives described in these patents are infusible, organic solvent-dispersible, organic solvent-insoluble, inherently tacky and elastomeric homo- or copolymer microspheres."(p. 5 lines 17-21)

and the abstract of Baker et al.:

“Infusible, solvent-insoluble, solvent-dispersible, inherently tacky, elastomeric polymeric microspheres which are formed from non-ionic monomers and comprise at least one oleophilic water-emulsifiable alkyl acrylate or methacrylate ester, and a suspension polymerization technique for producing the microspheres, which includes the use of an ionic suspension stabilizer.”

Applicants’ prior statement was directed at *the particular hot melt adhesive system* of Baker et al. *that also includes tacky elastomeric microspheres* (col. 4 lines 41-45 of Baker et al.) (which particular system is fusible). That prior statement merely restates what Applicants have already pointed out in the Background portion of the present specification: that *the hot melt adhesive system* discussed in Baker et al. *that also includes tacky elastomeric microspheres* (see col. 4 lines 41-45) is problematic and to be distinguished from the remaining infusible embodiments of Baker et al. These statements do not deny or dispute that Baker et al. generally disclose elastomeric microsphere adhesives, that such adhesives can be used in the present invention as the second adhesive layer, and that such adhesives are infusible.

In sum, the rejection of claims 1-12 should be withdrawn.

Conclusion

In view of the foregoing, it is submitted that the application is in condition for allowance, the early indication of which is earnestly solicited. This paper is believed to be timely submitted, and no fee beyond that associated with the accompanying RCE is believed to be due; however, if this belief is in error, please charge any required fee to Deposit Account No. 13-3723.

Respectfully submitted,

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Date

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